

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Cause No. 4:19-cr-7-TWP-VTW
)	
JOE WARE)	
)	
Defendant.)	

REPORT AND RECOMMENDATION

On June 15, 2020, the Court held a hearing on the Petition for Warrant or Summons for Offender Under Supervision filed on December 19, 2019 (Dkt. 5). Defendant Joe Ware appeared via videoconference with his appointed counsel Jennifer H. Culotta, also via videoconference. The government appeared by James M. Warden, Assistant United States Attorney, via videoconference. U. S. Probation appeared by Officer Shallon Alford. The parties consented on the record to conduct the proceedings via videoconference.

The Court conducted the following procedures in accordance with Fed. R. Crim. P. 32.1(a)(1) and 18 U.S.C. § 3583:

1. The Court advised Mr. Ware of his rights and provided him with a copy of the petition.
2. Mr. Ware waived his right to a preliminary hearing.
3. The parties advised the Court they had reached an agreement to resolve the allegations in the Petition.
4. After being placed under oath, Mr. Ware admitted Violation No. 1. (Dkt. 5.)

5. The allegations to which Defendant admitted, as fully set forth in the petition, are:

**Violation
Number**

Nature of Noncompliance

1 "You must not commit another federal, state or local crime"

The offender was arrested by the Mansfield Police Department on December 17, 2019, in Richland County, Ohio, under case number 19-035391. The offender was charged with Ct. I: Possession of Drugs (felony); Ct. II: Drug Paraphernalia (felony); Ct. III - Obstructing Official Business (felony).

According to the incident report, a vehicle was observed parked and running in a high drug and crime area. There were two occupants inside the vehicle for over 30 minutes with no one exiting the vehicle. A police officer pulled behind the vehicle and activated his overhead lights. A black male exited the driver's seat and ran west as a second black male (later identified as the offender) exited the passenger seat, attempted to run, fell on ice and got back on his feet. Mr. Ware was ordered to stop moving multiple times. Mr. Ware then put his body back into the passenger side of the vehicle and began reaching toward the driver's seat. The officer deployed his taser, striking Mr. Ware in the torso. Mr. Ware was escorted to the ground and handcuffed without further incident. The police officer observed a small bag of suspected heroin on the passenger seat and a large blue back pack with bags hanging out of it, across the driver's side floor board. During the encounter, an individual called and reported the listed vehicle stolen from her residence. A tow inventory was conducted and a large amount of heroin, methamphetamine and marijuana was located in the open blue bag. A search of Mr. Ware's person was conducted and a bag of marijuana was located in his right front pocket.

6. The parties stipulated that:

- (a) The highest grade of violation is a Grade B violation.
- (b) Defendant's criminal history category is II.
- (c) The range of imprisonment applicable upon revocation of supervised release, therefore, is 6 to 12 months' imprisonment.
- (d) The defendant has plead guilty to the Ohio state charges outlined in the Petition and has served his sentence of imprisonment for those charges.

The defendant is now subject to supervision/probation by the State of Ohio as part of the sentence imposed for those state charges.


- (e) The defendant should receive credit for the time he has served in federal custody.

7. The parties jointly recommended Mr. Ware be sentenced to six months imprisonment in the Bureau of Prisons with no term of supervised release to follow.

The Magistrate Judge, having considered the factors in 18 U.S.C. § 3553(a), and as more fully set forth on the record, finds that the Defendant VIOLATED the conditions in the Petition, that his supervised release should be REVOKED, and that he should be sentenced to the custody of the Attorney General or his designee for a period of six months with no term of supervised release to follow.

The parties are hereby notified that the District Judge may reconsider any matter assigned to a Magistrate Judge. The parties waived the fourteen-day period to object to the Report and Recommendation.

Dated: 6/16/2020



VAN WILLIS
United States Magistrate Judge
Southern District of Indiana

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